

January 13 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

Cause No.: DA 09-0510

STATE OF MONTANA, EX REL. DEPARTMENT OF ENVIRONMENTAL
QUALITY,

PLAINTIFF/APPELLANT and CROSS-APPELLEE,

v.

BNSF RAILWAY COMPANY,

DEFENDANT/APPELLEE and CROSS-APPELLANT,

and

SWANK ENTERPRISES,

APPELLANT.

FILED

JAN 12 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

**MOTION FOR EXTENSION OF TIME FOR TRANSMITTAL OF THE
DISTRICT COURT RECORD ON APPEAL AND RELEVANT COURT
TRANSCRIPTS**

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Marc G. Buyske
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On Appeal from the First Judicial District Court, Lewis and Clark County
The Honorable Jeffrey M. Sherlock, Presiding
District Court Cause No. BDV 2004-596

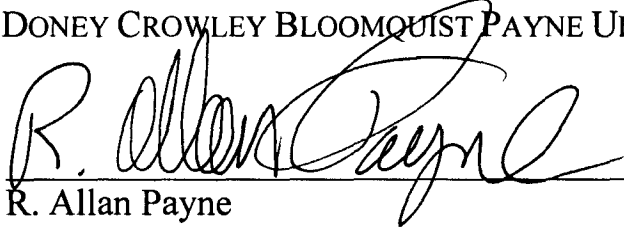
COMES NOW State of Montana, ex rel. Department of Environmental Quality, Plaintiff/Appellant and Cross-Appellee, and in accordance with the request of Ms. Penny L. Doig-Martin, RPR, Official Court Reporter, First Judicial District, files its unopposed Motion for an Extension of Time for Transmittal of the District Court Record on Appeal and Relevant Court Transcripts. Pursuant to the Affidavit of Penny L. Doig-Martin in Support of Motion for Extension, the original of which is attached hereto, other Court matters have made it impossible for Ms. Doig-Martin to complete the Transcripts on Appeal within the time allowed.

The undersigned has contacted counsel for the other parties and none object to the granting of this Motion for Extension. Therefore, the undersigned respectfully requests a thirty-day extension of the transmittal date deadline for the

District Court Record on Appeal and the relevant Court Transcripts from
January 12, 2010 to February 11, 2010.

DATED this 12th day of January, 2010.

DONEY CROWLEY BLOOMQUIST PAYNE UDA P.C.

A handwritten signature in black ink, appearing to read "R. Allan Payne", is written over a horizontal line.

R. Allan Payne
Marc G. Buyske

Attorneys for Appellant DEQ

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of January, 2010, a true and correct copy of the foregoing *Motion for Extension of Time for Transmittal of District Court Record on Appeal and Relevant Court Transcripts* was duly served, via First Class U.S. Mail, postage prepaid, on the attorneys of record addressed as follows:

Cynthia D. Brooks
Montana Department of Environmental Quality
Remediation Division
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First Judicial District
228 Broadway
Helena, MT 59601

Nancy Sweeney
Clerk of District Court
First Judicial District
228 Broadway
Helena, MT 59601-4263



Angela R. Woirhaye
Legal Secretary

1
2 AFFIDAVIT IN SUPPORT
3 OF MOTION FOR EXTENSION
4

5 I, PENNY L. DOIG-MARTIN, being duly sworn
6 upon my oath, deposes and says:

7 1. I am the Official Court Reporter for the
8 First Judicial District and as such am responsible for
the preparation of the Transcripts on Appeal in the case
MDEQ versus BNSF Railway Company.

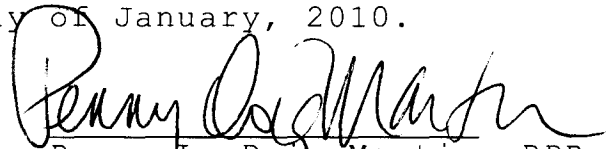
9 2. I am also responsible for reporting
10 cases in court, and have numerous criminal Transcripts
on Appeal which must be prepared first.

11 3. Transmittal date to the Supreme Court is
12 January 12, 2010.

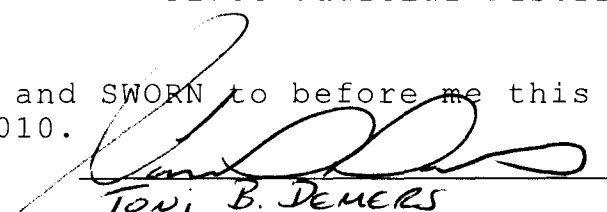
13 4. It will be impossible for said court
reporter to complete the Transcripts on Appeal within
14 the time allowed.

15 5. Therefore, it will be necessary to
16 extend the transmittal date deadline thirty (30) days
from January 12, 2010, until February 11, 2010.

17 Dated this 12th day of January, 2010.

18 
19 Penny L. Doig-Martin, RPR
20 Official Court Reporter
First Judicial District

21
22 SUBSCRIBED and SWORN to before me this 12th
day of January, 2010.

23 
24 Toni B. DEMERS
NOTARY PUBLIC for the State
of MT, Residing in Helena, MT
My Commission Expires:

25 January 18, 2010